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year up to a maximum established under § 9901.511(d).

EXTERNAL RECRUITMENT AND INTERNAL PLACEMENT

§ 9901.511 Appointing authorities.

(a) *Competitive and excepted appointing authorities.* The Secretary may continue to use excepted and competitive appointing authorities under chapter 33 of title 5, U.S. Code, Governmentwide regulations, or Executive orders, as well as other statutes, and those individuals appointed under these authorities will be given career, career conditional, term or temporary appointments in the competitive service or permanent, time-limited, or temporary appointments in the excepted service, as appropriate. The competitive appointing authorities under this paragraph are subject to the procedures in part 330 of this title, except for 5 CFR 330.208 and 330.501.

(b) *Additional appointing authorities.*

(1) The Secretary and the Director may enter into written agreements providing for new excepted and competitive appointing authorities for positions covered by the National Security Personnel System, including noncompetitive appointments, and excepted appointments that may lead to a subsequent noncompetitive appointment to the competitive service.

(2) DoD and OPM will jointly publish a notice, and request comments, in the FEDERAL REGISTER when establishing a new competitive appointing authority or a new excepted appointing authority that may lead to a subsequent noncompetitive appointment to a competitive service position.

(3) The Secretary will prescribe appropriate implementing issuances to administer a new appointing authority established under paragraph (b) of this section.

(4) At least annually, a consolidated list of all appointing authorities established under this section and currently in effect will be published in the FEDERAL REGISTER.

(c) *Severe shortage/critical need hiring authority.* (1) The Secretary will determine when a severe shortage of candidates or a critical hiring need exists, as defined in 5 CFR part 337, subpart B,

for particular occupations, pay bands, career groups, and/or geographic locations. The Secretary may decide that such a shortage or critical need exists, or may make this decision in response to a written request from the head of a DoD Component. These authorities may be used without regard to competitive examination requirements described in § 9901.515. Public notice will be provided in accordance with 5 U.S.C. 3304(a)(3)(A).

(2) For each specific authority, the Secretary will document the basis for the severe shortage or critical hiring need, consistent with 5 CFR 337.204(b) or 337.205(b), as applicable.

(3) The Secretary may extend a direct hire authority if the Secretary determines there is or will continue to be a severe shortage of candidates or a critical hiring need for a particular position(s) as of the date the authority is due to expire.

(4) The Secretary will terminate or modify a specific authority to make appointments under this section when it is determined that the severe shortage or critical need upon which the authority was based no longer exists.

(5) The Secretary will notify OPM of determinations made under this paragraph.

(d) *Non-permanent appointing authorities.* (1) The Secretary may authorize appointments with time limits in the competitive or excepted service, as appropriate, when the need for an employee's services is not permanent. These appointments will be either temporary, term, or time-limited as defined below:

(i) *Temporary appointments.* Temporary appointments are for a specified period not to exceed 1 year and may be made in either the competitive or the excepted service. A temporary appointment may be extended for 2 additional years, in increments not to exceed 1 year, to a maximum of 3 years. Temporary appointments may be made and extended to positions involving intermittent or seasonal work without regard to the maximum time limits. The circumstances under which a temporary appointment is appropriate include, but are not limited to: Filling a position to address a temporary workload peak or to complete a temporary

project; meeting a temporary staffing need that is anticipated not to exceed a 1-year timeframe for reasons such as abolishment, reorganization, or contracting out of a function; anticipated reduction in funding; filling positions temporarily because the positions are expected to be needed for placement of permanent employees who would otherwise be displaced; or when the incumbent will be out of the position for a temporary period of time, but is expected to return. A temporary employee may be reassigned to another temporary position provided the total combined service under the temporary appointment does not exceed the maximum 3-year time limitation, the employee meets the qualification requirements of the position, and the conditions specific to the employee's appointing authority are met. Temporary appointments are made as follows:

(A) *Competitive service.* Temporary appointments to positions in the competitive service may be made using competitive procedures under §9901.515, using the severe shortage/critical need hiring authorities described in §9901.511(c), or by using direct hire authority procedures under 5 CFR part 337, as appropriate. Temporary appointments to positions in the competitive service also may be made noncompetitively, consistent with 5 CFR part 316, or by any noncompetitive appointing authorities granted to or by the Secretary.

(B) *Excepted service.* Temporary appointments to positions in the excepted service are made under the procedures prescribed in 5 CFR part 302.

(ii) *Term appointments in the competitive service.* (A) Term appointments are in the competitive service and will be for a period of more than 1 year, but not to exceed 5 years. The term appointment may be extended by an authorized management official for 1 additional year to a maximum of 6 years. The circumstances under which a term appointment is appropriate include, but are not limited to, project work, extraordinary workload, uncertainty of future funding, scheduled contracting out or abolishment of a function, the need to maintain permanent positions for placement of potential surplus employees, or when the incumbent will be

out of the position for a significant period of time, but is expected to return. A term employee may be promoted, reassigned or reduced in band to another term position provided the total combined service under the term appointment does not exceed the maximum 6-year time limitation and the employee meets the qualification requirements of the position.

(B) Term appointments may be made using competitive procedures under §9901.515, using the severe shortage/critical need hiring authorities described in §9901.511(c), or by using direct hire authority procedures under 5 CFR part 337, as appropriate. Term appointments also may be made noncompetitively consistent with 5 CFR part 316 or by any noncompetitive appointing authorities granted to or by the Secretary.

(iii) *Time-limited appointments in the excepted service.* Time-limited appointments are in the excepted service and will be for a period of more than 1 year. Time-limited appointments to positions in the excepted service are made under the procedures prescribed in 5 CFR part 302. A time-limited employee may be reassigned to another time-limited position in the excepted service provided the employee meets the qualification requirements of the position and the conditions specific to the appointing authority applicable to the employee.

(2) *Conversion to career conditional or career appointment.* A non-permanent employee serving in a competitive service position may be converted without further competition to a permanent position (*i.e.*, career or career conditional) if—

(i) The vacancy announcement met the requirements of §9901.515(a) and included the possibility of noncompetitive conversion to a permanent position (*i.e.*, career or career conditional) at a later date;

(ii) The individual was appointed using the competitive examining procedures set forth in §9901.515(b) and (c);

(iii) The employee completed at least 2 years of continuous service at Level 3 (Valued Performer) or better; and

(iv) The employee is converted to a career conditional or career position in

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the same pay schedule and band for which hired.

(e) *Tenure group.* For reduction in force purposes, NSPS employees appointed to the competitive service are placed in one of the tenure groups defined in 5 CFR 351.501(b) or, if appointed to the excepted service, one of the tenure groups defined in 5 CFR 351.502(b).

§ 9901.512 Probationary periods.

(a) *Initial probationary period.* (1) An employee who is given a career, career conditional, or term appointment in the competitive service or a permanent or time-limited appointment in the excepted service under this part is required to complete a probationary period when the employee:

(i) Is appointed from a competitive list of eligibles established under § 9901.515, using the severe shortage/critical need hiring authorities described in § 9901.511(c), or by using direct hire authority procedures under 5 CFR part 337; or

(ii) Is appointed to the competitive service either by special authority or by conversion under subpart F or G of 5 CFR part 315, unless specifically exempt from probation by the authority itself; or

(iii) Is reinstated, unless, during any period of service which affords a current basis for reinstatement, the employee completed an initial probationary period; or

(iv) Is appointed to a position in the excepted service under the procedures prescribed in part 302 of this title.

(2) An employee serving an initial probationary period at the time his or her permanent position is converted into NSPS, or at the time he or she is assigned from a non NSPS position to an NSPS position, or at the time he or she is reappointed through the DoD Priority Placement Program or Reemployment Priority List established under part 330 of this title after being involuntarily separated through no fault of the employee, will continue the probationary period; *i.e.*, the probationary period does not start over.

(3) The probationary period required by § 9901.512(a) is as follows:

- (i) Competitive service—1 year
- (ii) Excepted service—

(A) 2 years for non-preference eligibles;

(B) 1 year for preference eligibles.

(4) *Crediting service.* (i) Absence in an approved nonpay status while on the rolls (other than for compensable injury or military duty) is creditable up to a total of 22 workdays.

(ii) Service during an initial probationary period from which an employee is separated for performance or conduct does not count toward completion of probation required under a subsequent NSPS appointment.

(iii) The probationary period for part-time employees is computed on the basis of calendar time, in the same manner as for full-time employees. For intermittent employees, *i.e.*, those who do not have regularly scheduled tours of duty, each day or part of a day in pay status counts as 1 day of credit toward the 260 days (actual “work days” in a year, excluding weekends) needed to complete the 1-year probationary period. The probationary period may not be completed in less than 1 year calendar time.

(iv) Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service under part 353 of this title. An employee serving a probationary period who leaves Federal service to become a volunteer with the Peace Corps or the Corporation for National and Community Services serves the remainder of the probationary period upon reinstatement, provided the employee is reinstated within 90 days of termination of service as a volunteer or training for such service.

(5) *Termination of probationers for unsatisfactory performance and/or conduct.* When an authorized management official proposes to terminate a competitive service employee during his or her initial probationary period because his or her performance and/or conduct during this period fails to demonstrate his or her fitness or qualifications for continued employment, the official will follow procedures at 5 CFR 315.804.

(6) *Termination of probationers for conditions arising before appointment.* When an authorized management official proposes to terminate a competitive service employee during his or her initial